

# ORIGINAL

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2 of the State of California  
3 ROBERT C. CROSS,  
4 Deputy Attorney General  
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6 Sacramento, California 95814  
7 Telephone: (916) 445-0422

8 Attorneys for Complainant  
9 BOARD OF MEDICAL QUALITY ASSURANCE  
10

11 BEFORE THE  
12 DIVISION OF MEDICAL QUALITY  
13 BOARD OF MEDICAL QUALITY ASSURANCE  
14 DEPARTMENT OF CONSUMER AFFAIRS  
15 STATE OF CALIFORNIA  
16

17 In the Matter of the Accusation ) NO. D-2829  
18 Against: )  
19 )  
20 RICHARD M. ARMSTRONG, M.D. ) STIPULATION AND ORDER  
21 648 North Farmersville )  
22 Farmersville, California )  
23 )  
24 Physician's and Surgeon's )  
25 Certificate No. A-17174, )  
26 )  
27 Respondent. )  
\_\_\_\_\_ )

18 It is hereby stipulated between the parties to the  
19 above entitled action as follows:

20 I

21 Richard M. Armstrong, M.D. (hereinafter respondent),  
22 stipulates that he has been duly served with an Accusation in  
23 the above entitled matter and all accompanying papers required  
24 to be served with the Accusation in accordance with the Adminis-  
25 trative Procedure Act (Gov. Code § 11500 et seq.). Respondent  
26 has filed a Notice of Defense and retained attorney Donald R.  
27 Fischbach to represent him in this matter.

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II

Respondent is aware of his right to a hearing pursuant to the Administrative Procedure Act. Respondent hereby waives his right to such a hearing and agrees that the matter may be submitted to the Division of Medical Quality for decision based upon this Stipulation.

III

Respondent admits to the truth of the following:

- A. Robert Rowland, Executive Director of the Board of Medical Quality, filed the Accusation in his official capacity.
- B. That on September 24, 1956, respondent was issued Physician's and Surgeon's Certificate No. A-17174, which has remained in good standing.
- C. For the purposes of this proceeding only, and without stipulating specifically as to any of the patients alleged in the Accusation, respondent admits that with respect to numerous patients he has been guilty of gross negligence, incompetence, repeated similar negligent acts, and clearly excessive prescription with respect to his prescribing practices for the drug Didrex and that said conduct constitutes cause for disciplinary action pursuant to Business and Professions Code sections 2234 and 725.

IV

This entire document, including all admissions and stipulations, shall be of no force and effect unless and until adopted as decision of the Division of Medical Quality. In the event this Stipulation is rejected by the Division of Medical

1 Quality, the entire document shall be null and void, and not be  
2 used for any legal purpose.

3 V

4 Based upon the foregoing, the Division of Medical  
5 Quality may issue the following Order:

6  
7 \* \* \* \* ORDER \* \* \* \*

8 Certificate No. A-17174 issued to respondent is  
9 revoked. However, said revocation is stayed and respondent is  
10 placed on probation for seven (7) years upon the following terms  
11 and conditions.

12 1. As a part of probation, respondent is suspended  
13 from the practice of medicine for ninety (90) days beginning the  
14 effective date of this decision. Respondent shall receive credit  
15 for all time not practicing after June 15, 1982.

16 2. Respondent shall not prescribe, administer,  
17 dispense, order, or possess any controlled substances as defined  
18 by the California Uniform Controlled Substances Act, or the Federal  
19 Schedule, except for those drugs listed in Schedules IV and V  
20 of the State Act.

21 3. Respondent shall maintain a record of all  
22 controlled substances prescribed, dispensed, or administered by  
23 respondent during probation showing all of the following:

- 24 a. The name and address of the patient,  
25 b. The date,  
26 c. The character and quantity of controlled  
27 substances involved, and

1           d. The pathology and purpose for which the con-  
2           trolled substance was furnished.

3       Respondent shall make such records available for inspection and  
4       copying by the Division or designee, upon request.

5           4. Within ninety (90) days of the effective date of  
6       this decision, and on an annual basis thereafter, respondent  
7       shall submit to the Division for its prior approval an education  
8       program or course related to medical therapeutics, which shall  
9       not be less than forty (40) hours per year, for each year of  
10      probation. This program shall be in addition to the continuing  
11      medical education requirements for relicensure. Following the  
12      completion of each course, the Division or its designee may  
13      administer an examination to test the respondent's knowledge of  
14      the course.

15           5. Within ninety (90) days of the effective date of  
16      this decision, respondent shall take and pass an oral clinical  
17      examination to be administered by the Division or its designee.  
18      If respondent fails this examination, respondent must wait three  
19      (3) months between reexaminations, except that after three (3)  
20      failures, respondent must wait one year to take each necessary  
21      reexamination thereafter. The Division shall pay the costs of  
22      the first examination, and respondent shall pay the costs of any  
23      subsequent examinations. If respondent fails to take and pass  
24      this examination by the end of the first year or probation,  
25      respondent shall cease the practice of medicine until this  
26      examination has been successfully passed and respondent has been  
27      so notified by the Division in writing.

1           6. Within thirty (30) days of demand by the Division  
2 or its designee, and on a periodic basis thereafter as may be  
3 required by the Division or its designee, respondent shall  
4 undergo a psychiatric evaluation by a Division-appointed psychia-  
5 trist who shall furnish a psychiatric report to the Division or  
6 its designee. If respondent is required by the Division or its  
7 designee to undergo psychiatric treatment, respondent shall within  
8 thirty (30) days of the requirement notice submit to the Division  
9 for its prior approval the name and qualifications of a psychia-  
10 trist of respondent's choice. Upon approval of the treating  
11 psychiatrist, respondent shall undergo and continue psychiatric  
12 treatment until further notice from the Division. Respondent  
13 shall have the treating psychiatrist submit quarterly status  
14 reports to the Division.

15           7. Within thirty (30) days of demand by the Division  
16 or its designee, and on a periodic basis thereafter as may be  
17 required by the Division or its designee, respondent shall undergo  
18 a medical evaluation by a Division-appointed physician who shall  
19 furnish a medical report to the Division or its designee. If  
20 respondent is required by the Division or its designee to undergo  
21 medical treatment, respondent shall within thirty (30) days of  
22 the requirement notice submit to the Division for its prior  
23 approval the name and qualifications of a physician of respondent's  
24 choice. Upon approval of the treating physician, respondent shall  
25 undergo and continue medical treatment until further notice from  
26 the Division. Respondent shall have the treating physician  
27 submit quarterly reports to the Division.

1           8. During probation, respondent is prohibited from  
2 treating obesity through the use of drugs.

3           9. Respondent shall abstain completely from the use  
4 of alcoholic beverages.

5           10. Respondent shall obey all federal, state and  
6 local laws, and all rules governing the practice of medicine in  
7 California.

8           11. Respondent shall submit quarterly declarations  
9 under penalty of perjury on forms provided by the Division, stat-  
10 ing whether there has been compliance with all the conditions of  
11 probation.

12           12. Respondent shall comply with the Division's proba-  
13 tion surveillance program.

14           13. Respondent shall appear in person for interviews  
15 with the Division's medical consultant upon request at various  
16 intervals and with reasonable notice.

17           14. In the event respondent should leave California to  
18 reside or to practice outside the State, respondent must notify  
19 in writing the Division of the dates of departure and return.  
20 Periods of residency or practice outside California will not  
21 apply to the reduction of this probationary period.

22           15. Upon successful completion of probation, respondent's  
23 certificate will be fully restored.

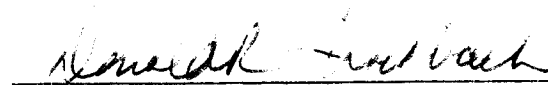
24           16. If respondent violates probation in any respect,  
25 the Division, after giving respondent notice and the opportunity  
26 to be heard, may revoke probation and carry out the disciplinary  
27 order that was stayed. If an accusation or petition to revoke

1 probation is filed against respondent during probation, the  
2 Division shall have continuing jurisdiction until the matter  
3 is final, and the period of probation shall be extended until  
4 the matter is final.

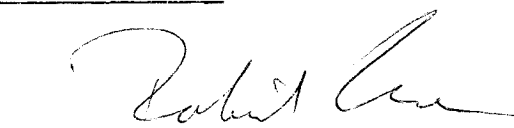
5 DATED: June 16, 1982.

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8 RICHARD M. ARMSTRONG, M.D., Respondent

9 DATED: June 5, 1982.

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12 DONALD R. FISCHBACH  
Attorney for Respondent


13 DATED: June 14, 1982.

14  
15   
16 ROBERT C. CROSS  
17 Deputy Attorney General  
Attorney for Complainant

18 The foregoing is hereby adopted as the decision of the  
19 Division of Medical Quality.

20 DATED: July 15, 1982.

21 EFFECTIVE: August 13, 1982.

22   
23 MILLER MEDEARIS  
24 DIVISION OF MEDICAL QUALITY  
BOARD OF MEDICAL QUALITY ASSURANCE  
25 STATE OF CALIFORNIA  
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27

OFFICE COPY

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Farmersville, CA )  
15 )  
Physician's and Surgeon's )  
16 Certificate No. A-17174, )  
Respondent. )  
17 )  
18

19 Complainant Robert Rowland alleges:

20 I

21 Complainant is the Executive Director of the Board  
22 of Medical Quality Assurance of the State of California and  
23 makes this accusation solely in such official capacity.

24 II

25 On September 24, 1956, respondent Richard M. Armstrong,  
26 M.D. was issued Physician's and Surgeon's Certificate No. A-  
27 17174. Said certificate remains in good standing.



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III

Business and Professions Code\* section 2234 provides that the Division of Medical Quality shall take action against any licensee who is charged with unprofessional conduct. Said section defines unprofessional conduct to include the following:

". . . . .

"(b) Gross negligence.

"(c) Repeated similar negligent acts.

"(d) Incompetence."

IV

Section 2242 provides that it is unprofessional conduct to prescribe dangerous drugs as defined in section 4221 without a good faith prior examination and medical indication therefor.

V

Section 725 provides that repeated acts of clearly excessive prescribing or administering of drugs or treatment as determined by the standard of the local community of licensees is unprofessional conduct.

VI

Respondent Richard M. Armstrong, M.D., is guilty of unprofessional conduct with respect to his prescribing practices for numerous patients. The specifics are as follows.

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\*All future references are to the Business and Professions Code unless otherwise specified.

	<u>PATIENT</u>	<u>DRUGS PRESCRIBED</u>	<u>PERIOD OF TIME PRESCRIBED</u>	<u>APPROXIMATE AMOUNT PRESCRIBED</u>	<u>SECTIONS CHARGED</u>
1	1. Dave A.	Didrex 50 mg.	11/75-6/80	5,000	725, 2242,
2					2234(b),
3					(c) and (d)
4	2. Monica A.	Didrex 50 mg.	11/78-12/80	1,400	Same
5	3. Shirley B.	Didrex 50 mg.	8/75-6/80	4,800	Same
6	4. Gloria A.	Didrex 50 mg.	3/77-6/80	2,300	Same
7	5. Rachel B.	Didrex 50 mg.	10/69-9/70; 9/75-7/80	5,600	Same
8	6. Bethine B.	Didrex 50 mg.	9/78-6/80	2,600	Same
9	(Diagnoses of hyper-tension)				
10		APC w/ codeine 1/2 gr.		2,480	
11		Promethazine w/codeine		600 cc	
12		Butisol 100 mg.		2,200	
13		Ser-Ap-Es		1,000	
14	7. Jimmie B.	Didrex 50 mg.	2/74-6/80	7,600	Same
15		APC w/codeine	10/78-6/80	2,000	
16		Butisol 100 mg.	10/78-6/80	2,200	
17		Pheno Barbitol			
18		100 mg.	12/78 (1 prescription)		
19		Promethazine			
20		w/codeine	11/73-12/78	240 cc	
21		(2 prescriptions)			
22		Dalmane 30 mg.	12/78-2/80	230	
23	8. Susan B.	Didrex 50 mg.	1/74-4/79	4,100	Same
24	9. Jack B.	Didrex 50 mg.	8/75-7/80	3,600	Same
25	10. Zoda B.	Didrex 50 mg.	1/76-7/80	3,100	Same
26	11. Ann B.	Didrex 50 mg.	9/75-2/81	3,200	Same
27	12. Sharon B.	Didrex 50 mg.	8/75-6/80	5,200	Same
28	13. Fern B.	Didrex 50 mg.	10/76-6/80	3,700	Same
29	14. Toni C.	Didrex 50 mg.	6/76-6/80	3,800	Same
30	15. Marie C.	Didrex 50 mg.	9/76; 6/77-6/80	3,000	Same
31	16. Stan C.	Didrex 50 mg.	3/77-6/80	2,800	Same
32	17. Shirley C.	Didrex 50 mg.	7/74-6/80	6,100	Same

	<u>PATIENT</u>	<u>DRUGS PRESCRIBED</u>	<u>PERIOD OF TIME PRESCRIBED</u>	<u>APPROXIMATE AMOUNT PRESCRIBED</u>	<u>SECTIONS CHARGED</u>
1					
2					
3	18. Lonnie C.	Didrex 50 mg.	10/75-6/80	3,600	Same
4	19. Marilyn C.	Didrex 50 mg.	11/75-6/80	4,300	Same
5	20. Valerie D.	Didrex 50 mg.	4/76-6/80	3,500	Same
6	21. Hazel D.	Didrex 50 mg. Butibarbitol 30 mg.	10/73-6/80	4,000 Quantity unknown	Same
7	22. Renee D.	APC or Emperin w/codeine 7/77-6/80		772	Same
8		Valium		800	
9		Didrex 50 mg.	2/80-6/80	500	
10		Promethazine w/codeine		300 cc	
11	23. Larry D.	Didrex 50 mg.	6/73-5/80	3,800	Same
12	24. Debbie D.	Didrex 50 mg.	3/74-5/80	4,100	Same
13	25. Butch D.	Didrex 50 mg.	8/75-6/80	5,200	Same
14	26. Pat D.	Didrex 50 mg.	1/76-6/76; 12/76-7/80	4,300	Same
15	27. Beverly D.	Didrex 50 mg.	6/75-6/80	5,300	Same
16	28. Novelle E.	Didrex 50 mg.	9/78-6/80	2,400	Same
17	29. Martha E.	Didrex 50 mg.	8/78-6/80	2,000	Same
18		Triavil	3/79-6/80	1,300	
19		Dalmane	1/9/80 (1 prescription)	12	
20		Flavil 25 mg.	5/80-6/80	200	
21	30. Wanda F.	Butibarbitol 30 mg.	7/78-12/78	1,080	Same
22		APC or Emperin w/codeine	10/78-7/80	1,140	
23		Didrex 50 mg.	4/25/80 (1 prescription)	100	
24	31. Dean H.	Didrex 50 mg.	10/76-6/80	5,400	Same
25	32. Julie O.	Didrex 50 mg.	9/76-7/80	4,500	Same
26	33. Don R.	Serax	8/78-6/80	4,500	Same
27		Propoxyphene (Darvon) 65 mg.		8,722	

	<u>PATIENT</u>	<u>DRUGS PRESCRIBED</u>	<u>PERIOD OF TIME PRESCRIBED</u>	<u>APPROXIMATE AMOUNT PRESCRIBED</u>	<u>SECTIONS CHARGED</u>
3	34. Betty U.	Didrex 50 mg.	8/77-5/80	2,800	Same
4	35. John Mc.	Didrex 50 mg.	1/79-6/79	300	Same

5

6

## VII

7           Respondent Richard M. Armstrong, M.D. is guilty of  
8 repeated similar negligent acts with respect to the above  
9 patients. In each of the cases respondent's medical records  
10 contained an inadequate amount of information, inadequate  
11 physical examinations, and inadequate justifications for  
12 prescribing the relevant medications. Such conduct on the  
13 part of respondent is cause for disciplinary action pursuant  
14 to Business and Professions Code section 2234(c).

15           WHEREFORE, complainant prays that a hearing be  
16 held on the matters alleged herein and that following such  
17 hearing, a decision be issued revoking respondent's license  
18 to practice medicine or taking such other and further relief  
19 as is deemed proper.

20           DATED: November 13, 1981.

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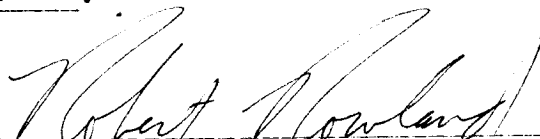
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ROBERT ROWLAND, Executive Director  
Division of Medical Quality  
Board of Medical Quality Assurance  
Department of Consumer Affairs  
State of California

Complainant